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ATTORNEYS FOR DEBTOR SUPERIOR AIR PARTS, INC.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:	§	Case No. 08-36705-bjh11
	§	
SUPERIOR AIR PARTS, INC.,	§	Chapter 11
	§	
Debtor.	§	
	§	
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SUPERIOR AIR PARTS, INC.	§	
<i>Plaintiff,</i>	§	Adversary No. 09-03052-bjh
V.	§	
	§	
THIELERT AG	§	
<i>Defendant.</i>		

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Superior Air Parts, Inc. ("Superior"), Plaintiff and Debtor-in-Possession, files this Motion for Summary Judgment, pursuant to Rule 56, FED. R. CIV. P., and Local Bankruptcy Rule 7056, and would respectfully show the Court as follows:

**I.
INTRODUCTION AND SUMMARY OF GROUNDS**

1. Defendant Thielert AG is the owner of all of Superior's outstanding shares, and claims a security interest in substantially all of Superior's assets, which consist solely of personal property. As will be shown below, Superior is entitled to summary judgment, pursuant to the "Strong Arm Powers" statute, 11 U.S.C. § 544, avoiding the

liens and security interest of Thielert AG because Thielert AG has failed to perfect its security interest in Superior's assets.

**II.
SUMMARY JUDGMENT EVIDENCE**

2. In support of its Motion for Summary Judgment, Superior relies on the following:

- a. Thielert AG's Proof of Claim, No. 46 in the amount of \$10,146,611.11 (see Appendix A);
- b. Debtor's Complaint to Avoid Liens and Security Interests of Thielert AG (see Appendix B); and
- c. Thielert AG's Answer herein (see Appendix C).

**III.
STATEMENT OF UNDISPUTED MATERIAL FACTS**

3. Solely for purposes of determining this Motion for Summary Judgment, the following, material facts are undisputed:

- a. Superior is a Texas corporation with its offices and operating facilities located in Coppell, Dallas County, Texas;
- b. Superior filed for protection under Chapter 11 of the Bankruptcy Code on December 31, 2008, and is serving as the Debtor-in-Possession.
- c. Thielert AG purports to be a secured creditor of Superior (see Appendix A);
- d. Thielert AG filed a Proof of Claim in this case asserting a secured claim in the amount of \$10,146,611.11 (*id.*);
- e. Thielert AG did not attach to its Proof of Claim any evidence of perfection of its purported security interest (*id.* and Appendix C, para. 8);

f. Thielert AG admitted in its answer that it does not have an active Uniform Commercial Code financing statement with the Texas Secretary of State (see Appendices B and C, para. 9); and

g. Thus, Thielert AG's security interest is unperfected.

**IV.
CONCLUSION**

WHEREFORE, Superior requests the Court grant its Motion for Summary Judgment, avoiding the liens and security interest, if any, of Thielert AG on Superior's assets.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing pleading were forwarded to the parties listed below via facsimile and U.S. mail on the 2nd day of April 2009.

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